

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX
APPELLATE DIVISION**

SHASHI JADOORAM,)	
)	
Appellant,)	
)	
v.)	D.C. CRIM. APP. NO. 2002/75
)	
GOVERNMENT OF THE VIRGIN)	T.C. Crim. No. 303/2001
ISLANDS,)	
)	
Appellee.)	
)	

On Appeal from the Territorial Court of the Virgin Islands

Considered: December 5, 2003

Filed: March 8, 2004

BEFORE: **RAYMOND L. FINCH**, Chief Judge, District Court of the Virgin Islands; **THOMAS K. MOORE**, Judge of the District Court of the Virgin Islands; and **AUDREY L. THOMAS**, Judge of the Territorial Court, Sitting by Designation.

MEMORANDUM OPINION

PER CURIAM.

Shashi Jadooram ["Jadooram" or "Appellant"] was convicted of four counts of simple assault and battery and two counts of reckless endangerment stemming from charges that he, along with others, used a firearm to discharge shots into a vehicle and deliberately bumped that vehicle causing it to go over an embankment. Jadooram now challenges his conviction and raises the following issue on appeal:

Whether the trial court erred in denying appellant's motion for judgment of acquittal, based on alleged inconsistent jury verdicts.

For the reasons stated below, this Court will affirm the judgment of the trial court.

I. FACTS

On October 21, 2001, Barbara James Petersen ["Petersen"] took her daughter to a volleyball tournament at the Good Hope School on St. Croix. [Appendix ["App."] at 22]. Another individual, Hillary Taylor ["Taylor"], also attended the tournament. During the tournament a friend told Taylor that Jadooram, with whom Taylor had had a problem, was also present at the volleyball tournament. [App. at 23].

After the tournament, Petersen gave Taylor and two other passengers a ride home. While traveling eastward on the Melvin Evans Highway, one of the four passengers told Petersen that they were being followed. [App. at 22]. When Petersen was in the vicinity of Estate Paradise, a light-colored vehicle displaying a Honda emblem drove along the right side of her car and overtook her vehicle. The Honda then slowed down in front of Petersen's vehicle. [App. at 22].

A second vehicle, a Ford Contour operated by Jadooram, then drove alongside Petersen's vehicle. Jadooram began to point and gesture at Taylor. Petersen then increased her speed and managed to overtake the Honda, at which point Petersen heard a shot. [App. at 22-23]. Shortly thereafter, Jadooram's Ford Contour pulled alongside Petersen's vehicle and bumped it causing her to lose control of her vehicle, which went over an embankment in the vicinity of the Patrick Sweeny Headquarters on Melvin Evans Highway. [App. at 22-23]. Petersen's vehicle was later recovered and examined and a bullet hole was discovered in the trunk of the vehicle. [App. at 23].

Subsequently, Jadooram was arrested and charged with five counts of assault in the third degree (one count for each passenger in Petersen's vehicle); two counts of reckless endangerment (one, by discharging a firearm and two, by causing Petersen's vehicle to go over an embankment); and one count of unauthorized possession of a firearm. In each count the defendant was also charged with aiding and abetting other persons actually present. [App. at 17-21]. Following a jury trial, Jadooram was convicted of four counts of simple assault and battery and two counts

of reckless endangerment.¹ He was acquitted of one count of unauthorized possession of a firearm.

Following his conviction, Jadooram orally moved for judgment of acquittal pursuant to Federal Rules of Criminal Procedure 29(c). The trial court denied the motion. Jadooram then filed a written motion for reconsideration of the court's denial of his motion for judgment of acquittal. At sentencing on May 22, 2002, the court considered Jadooram's motion for reconsideration and again denied the motion for judgment of acquittal. [App. at 42-44].

II. DISCUSSION

A. Jurisdiction and Standard of Review

This Court has appellate jurisdiction to review judgments and orders of the Territorial Court "in all criminal cases in which the defendant has been convicted, other than on a plea of guilty." 4 V.I. Code Ann. § 33 (1997); Section 23A of the Revised Organic Act of 1954. The standard for review of a post-verdict judgment of acquittal is the same as that applied by the trial court. The court

¹

Jadooram was initially charged with five counts of Assault in the Third Degree, one of which was dismissed by the Court at the conclusion of the evidence. On the other four counts of Assault in the Third Degree, Jadooram was found not guilty but was convicted on the lesser included offense of Simple Assault and Battery.

of appeals views the evidence in the light most favorable to the jury verdict and presumes that the jury properly evaluated the credibility of the witnesses, found the facts, and drew rational inferences. *United States v. Iafelice*, 978 F.2d 92, 94 (3d Cir. 1992).

B. Whether the Court Erred in Denying Appellant's Motion for Judgment of Acquittal.

Appellant urges this Court to find error in the trial court's denial of his motion for judgment of acquittal. Appellant argues that the verdict of guilty of reckless endangerment by discharging a firearm and the verdict of acquittal on unauthorized possession of a firearm are legally inconsistent and, therefore, violative of due process. More specifically, Appellant argues that the evidence was the same for all the counts in question such that the acquittal on unauthorized possession of a firearm necessarily determines that the evidence failed to establish a fact which is essential to the charge of reckless endangerment by discharging a firearm.

In support of this argument, Appellant refers the Court to *Dunn v. United States*, 284 U.S. 390 (1932). According to Appellant, the *Dunn* Court makes a distinction between factually inconsistent verdicts and legally inconsistent

verdicts. Contrary to Appellant's claim, the *Dunn* Court does not recognize such a distinction. Simply stated, *Dunn* holds that, "consistency in the verdict is not necessary." *Dunn v. U.S.*, 284 U.S. at 393 (1932). *Dunn* goes on to state that, "[e]ach count in an indictment is regarded as if it were a separate indictment." *Id.* (citations omitted). Moreover, the *Dunn* Court explains that even if the counts were tried separately and the same evidence were offered in support of each, "an acquittal [of one count] could not be pleaded as res judicata of the other." *Id.* Similarly, that Court concludes that the same rule must hold where offenses are charged separately in the counts of a single indictment. *Id.*

The trial court, in reviewing Appellant's motion for reconsideration of its denial of the motion for judgment of acquittal, noted that each count of the indictment also charged Appellant with aiding and abetting other persons actually present, thereby allowing the jury to consider a "variety of factors" and to return seemingly inconsistent verdicts.² [App. at 42]. It is conceivable that the jury

²

The trial court concluded, after reviewing the evidence presented at trial, that the evidence was sufficient to sustain the guilty verdict at issue. It should be noted, however, that appellant did not raise the issue of sufficiency of the evidence on appeal. A sufficiency-of-the-evidence review should not be confused with a review of inconsistent

determined that the government failed to prove beyond a reasonable doubt that Appellant was the one who possessed the firearm. It is likewise conceivable that the jury could also have found that Appellant, identified as the driver of the second vehicle, bumped Petersen's vehicle. In so doing, Appellant aided and abetted others actually present, either in Appellant's vehicle or the other vehicle, in facilitating the discharge of the firearm into Petersen's vehicle.

To allow Appellant to challenge the inconsistent verdicts and assess the reason for the inconsistency, however, would result in "speculation or would require inquiries into the jury's deliberations that courts generally will not undertake." *U.S. v. Powell*, 469 U.S. 57, 66 (1984). As was stated in *Steckler v. United States*, 7 F.2d 59, 60 (2d Cir. 1925) and as is applicable in the instant action:

The most that can be said in such cases is that the verdict shows that either in the acquittal or the conviction the jury did not speak their real conclusions, but that does not show that they were not convinced of the defendant's guilt. We interpret that acquittal as no more than their assumption of a power which they had no right to exercise, but to which they were disposed through lenity.

verdicts. The latter is independent of a jury's determination that evidence on another count was insufficient. *Powell*, 469 U.S. at 67.

Dunn, 284 U.S. at 393. Although it is possible that the verdicts "may have been the result of compromise, or of a mistake on the part of the jury . . . verdicts cannot be upset by speculation or inquiry into such matters." *Dunn*, 284 U.S. at 394.

The law clearly establishes that jury verdicts may not be challenged for mere inconsistency. The "unreviewable power of a jury to return a verdict of not guilty for impermissible reasons" has long been established in *Dunn*. *Powell*, 469 U.S. at 476 (citing *Harris v. Rivera*, 454 U.S. 339, 346 (1981)). As the government is precluded from challenging an acquittal; likewise, a defendant is not allowed to receive a new trial on a conviction as a matter of course. *Id.* at 477. "[N]othing in the Constitution would require such a protection." *Id.*

III. CONCLUSION

For the foregoing reasons, the judgment of the trial court is affirmed.

A T T E S T:
WILFREDO F. MORALES
Clerk of the Court

By: Deputy Clerk

NOT FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX
APPELLATE DIVISION**

SHASHI JADOORAM,)	
)	
Appellant,)	
)	
v.)	D.C. CRIM. APP. NO. 2002/75
)	
GOVERNMENT OF THE VIRGIN ISLANDS,)	T.C. Crim. No. 303/2001
)	
)	
Appellee.)	
)	

On Appeal from the Territorial Court of the Virgin Islands

Considered: December 5, 2003

Filed: March 8, 2004

BEFORE: **RAYMOND L. FINCH**, Chief Judge, District Court of
 the Virgin Islands; **THOMAS K. MOORE**, Judge of the
 District Court of the Virgin Islands; and **AUDREY**
 L. THOMAS, Judge of the Territorial Court, Sitting
 by Designation.

ORDER OF THE COURT

PER CURIAM.

AND NOW this 8th day of March 2004, having considered
written arguments and submissions of the parties, and for
the reasons set forth in the Court's accompanying opinion of
even date, it is hereby

ORDERED AND ADJUDGED that the judgment of the trial
court is **AFFIRMED**.

A T T E S T:
WILFREDO F. MORALES
Clerk of the Court

By: Deputy Clerk

Copies (with accompanying opinion) to:

Judges of the Appellate Panel
The Honorable Jeffrey L. Resnick
The Honorable Geoffrey W. Barnard
Judges of the Territorial Court
Harold R. Washington, Esq.
Maureen Phelan, Esq., AAG
St. Thomas Appellate Law Clerks
St. Croix Appellate Law Clerks
Nydia Hess
Kim Bonelli